

**MINUTES**  
**Montana Fish, Wildlife & Parks Commission Meeting**  
**Helena Headquarters**  
**1420 East 6<sup>th</sup> Avenue**  
**Helena, MT 59620**

**September 11, 2003**

**Commission Members Present:** Dan Walker, Chairman; Tim Mulligan, Vice-Chairman; John Brenden; John Lane; Mike Murphy.

**Fish, Wildlife & Parks Staff:** Jeff Hagener, Director; other Department personnel.

**Guests:** Robin Cunningham, F.O.A.M.; Mark Henckel, Billings Gazette; Representative Pat Wagman; Deb Woerner, Laurel; Tim Frederick, Walleyes Unlimited; Bill Frederick, Helena; Sean and Maggie Murphy, Future Fishery applicants from Emigrant; Mike Sedlock, Walleyes Unlimited.

**Topics of Discussion:**

1. **Opening - Pledge of Allegiance**
2. **Approval of August 7 Commission Minutes and August 28 Conference Call Minutes**
3. **Approval of Commission Expenses through August 31, 2003**
4. **Personnel Appreciation Awards**
5. **2004 Non-Resident Combo License Rule - Tentative**
6. **Lower Swan River Boat Restrictions-Petition - Tentative**
7. **Parks Biennial Fee Rule-Proposed Change to Delete Resident Daily Entrance Fee - Tentative**
8. **Thompson Chain-of-Lakes FAS Camping Fee Implementation - Tentative**
9. **Smith River Special Use Annual Rule - Tentative**
10. **Wolf Record of Decision - Informational**
11. **Bison Hunt Strategy Timelines - Informational**
12. **Green Meadow Game Preserve Rule Repeal – Final**
13. **Correction to Hunting District 314-23 Regulations - Tentative**
14. **Gordon Ranch Conservation Easement Proposal (R6) - Informational**
15. **Clarks' Camp FAS Proposal (R5) - Informational**
16. **Future Fisheries Projects - July 2003 Funding Cycle - Final**
17. **Republican Canal Fish Screen - Construction/Maintenance Easements - Final**
18. **Walleyes Unlimited Presentation on Canyon Ferry Limits**
19. **Hunting Access Enhancement Program - Informational**
20. **Citizen's Opportunity to Speak**

**1. Opening - Pledge of Allegiance.** Chairman **Dan Walker** called the meeting to order at 8:10 a.m. and led the Pledge of Allegiance.

**2. Approval of Commission Minutes.**

*Action: Brenden moved and Lane seconded the motion to approve the minutes of the August 7, 2003 meeting. Motion carried.*

*Action: Lane moved and Murphy seconded the motion to approve the minutes of the August 28, 2003 conference call meeting. Motion carried.*

**3. Approval of Commission Expenses through August 31, 2003.**

*Action: Murphy moved and Lane seconded the motion to approve the Commission expenses through August 31, 2003 as presented. Motion carried.*

**4. Personnel Appreciation Awards.** Jeff Hagener, FWP Director, awarded plaques of appreciation to Caroline Sime, FWP Region 1 Wildlife Biologist, and Tom Palmer, FWP Information Bureau Chief, acknowledging them for their work on the Wolf Recovery plan. Sime coordinated and facilitated the Wolf Advisory Council, as well as shared her knowledge on the subject. Palmer was instrumental in handling the extensive media relations in this high profile issue.

**5. 2004 Non-Resident Combo License Rule - Tentative.** Dan Ellison, FWP Administration and Finance Administrator, presented the tentative 2004 annual rule recommendations for B-10 and B-11 outfitter sponsored licenses. He said the Variable Priced Licensing Advisory Council met in August, and they recommend a quota of 5,800 licenses for the B-10 Outfitter Sponsored Big Game licenses at a cost of \$975 each, and a quota of 2,300 for the B-11 Outfitter Sponsored Deer Combination Licenses at a cost of \$775 each. Ellison said the Department supports these recommendations.

Murphy, a member of the Advisory Council, said the subject was discussed at length, and in an attempt to assist the outfitting industry, they felt a reduction in prices might be the key to selling the remaining unsold tags. Ellison stated that financial comparisons indicate little difference between selling more licenses at a lesser cost, as compared to selling fewer licenses at a higher cost.

Hagener stated that concerns have been expressed regarding the exclusion of landowners from landowner sponsored drawings, due to their failure to turn their paperwork in to the Department on time. Ellison said in the past this was true, however, the proposed amendment to the rule will allow landowners to be eligible for remaining licenses after the initial drawing, providing they have submitted their paperwork

*Action: Murphy moved and Mulligan seconded the motion to approve the proposed tentative B-10 and B-11 Outfitter Sponsored License quotas and prices as recommended by the Advisory Committee, and supported by the Department, and to approve the amendment to the rule that will allow landowners the eligibility to participate in the second license drawing, subject to the submittal of their required paperwork. Motion carried.*

**6. Lower Swan River Boat Restrictions-Petition - Tentative. Dan Vincent, FWP Region 1 Supervisor**, said the Region has received a petition, as well as several letters, from citizens who are requesting that FWP implement an Administrative Rule to establish **non-motorized watercraft restrictions and/or no-wake restrictions** on the Swan River from Swan Lake to Bear Creek. This 3½-mile section of water is narrow, winding, and rocky, and is heavily utilized by tubers and anglers. The petitioners feel that with the increasing floating pressure, use of motorized watercraft is hazardous. **Murphy** said he, too, had received a call regarding safety issues where jet skis are concerned.

**Vincent** said it is conceivable that jet-boats could use this waterway, however, the primary conflicts involve jet ski users. He said the few people who have docks and jet skis on this stretch of water will undoubtedly be in opposition of this rule, but the preponderance of people will be supportive. He added that anglers will no doubt support this rule as well, due to fishing pressure below this stretch. **Vincent** suggested the Commission consider two alternatives: a “no motorized craft” option, or a “no-wake” option. He said a previous Commission decision already designated the 3-mile stretch of river above Swan Lake as “no-wake”.

**Vincent** said access is gained primarily at the South Ferndale Bridge, as well as at a Department owned fishing access site a mile downstream. **Walker** noted that this is an interesting twist to river recreation in that there are people involved in this who are not contributing to fishing access sites, and want to eliminate those who are. **Mulligan** commented he was impressed with the words on the petition that state the petitioners “know of no one who is opposing the rule”. He said if this situation is similar to the decision regarding the upper stretch, he anticipates numerous comments.

**Murphy** asked if concerns are being raised by people living in the area, or by outsiders, to which **Vincent** replied the Homeowner’s Association generated this petition. **Vincent** noted that he has met with Lake County Commissioner Mike Hutchin and Representative Stan Fisher, regarding this and access issues on the Swan.

**Vincent** said the Department recommends conducting a public hearing on this matter to obtain comments and opinions from the public. The resulting recommendations would then be brought before the Commission at the November meeting for final decision.

**Brenden** said he is against this proposed rule. He said a boat cannot travel swiftly in the river due to its configuration, and he has rarely observed motorized craft on that part of the river. He feels it is a discriminatory rule, and it sets a bad precedent. He said it’s a matter of common sense by users.

**Murphy** asked if there has been much enforcement on the river. **Vincent** replied there has been, relative to jet ski conflicts. He said after meeting with the Homeowner’s Association, FWP enrolled volunteers in the Water Watch Program, and advised them of what to watch for if there are conflicts, and how to notify wardens if a problem arose. Signs were posted on the river alerting the public of the voluntary no-wake areas, however, it didn’t solve the problem. **Vincent** replied that the Department does not like to place more restrictions on the river than necessary. **Murphy** stated that he shares the same concerns as Brenden, and has reservations about more stringent rules than no-wake restrictions.

**Walker** asked **Mulligan** if the River Recreation Plan could help with this. **Mulligan** said that the River Management Plan would not be complete before this decision is needed. **Mulligan** also said this would not be setting a precedent, as no-wake zones have been established a number of times. **Mulligan** asked if there has been any type of working group utilized to resolve the issues and work through conflicts. **Vincent** replied that a group of people has assembled to address Swan River access issues. **Mulligan** asked if this is a smaller piece of a bigger problem on the river. **Vincent** said this area is growing very quickly, and with more and more people seeking water, there will be more conflicts.

**Mulligan** said the Blackfoot River Steering Committee designated sections of the Blackfoot River for various uses, and usage designation may be necessary in other rivers as well. **Vincent** explained that in the spring there is an angling season, and mid-summer is floating season. The river regulates recreational usage due to water temperature and water level.

**Walker** said he sees no reason not to go forward with this proposal. He added that it is a different set of circumstances considering it is fee payers being petitioned off the water by non fee-payers. **Mulligan** stated he is interested in hearing what the public hearings reveal. **Brenden** stated that he could garner up opposition to this himself. **Vincent** said it will be a minimal number of people who will be directly impacted by any proposal. **Murphy** said he is not opposed to hearing public comment but he does not want the false perspective that he would entertain a no-motor decision. **Mulligan** said the wording used on lake no-wake rules concerning jet skis is "minimum safe speed". This would allow someone to proceed slowly to the lake and back. **Brenden** questioned the necessity of protecting people from common sense and personal responsibility. He said advisory groups have been taken over by out-of-staters.

*Action: Murphy moved and Lane seconded the motion to conduct a public hearing associated with the possibility and consideration for a no-wake zone on that stretch of the Swan River from the outlet of Swan Lake to Bear Creek. Motion carried. 4 in favor - 1 opposed (Brenden).*

**7. Parks Biennial Fee Rule-Proposed Change to Delete Resident Daily Entrance Fee - Tentative.** **Doug Monger, FWP Parks Division Administrator**, stated that the 2003 legislature passed Senate Bill 336 to fund Parks programs and operations. SB336 eliminated the resident day-use entrance fee, and established the optional \$4 license plate registration fee. **Monger** said the Department views this as a positive move. He said the biennial fee rule needs to reflect the language of SB336. **Murphy** asked if the Thompson Chain of Lakes FAS would be excluded from this rule, to which **Monger** assured him it would be.

*Action: Murphy moved and Mulligan seconded the motion to approve the Parks Biennial Fee Rule, excluding Thompson Chain of Lakes, to correspond with SB336 which eliminates the existing resident daily entrance fee, and institutes the \$4 optional license plate registration fee. The non-resident daily use fees and passports will remain in effect. Motion carried.*

**Monger** added that while attending the National Association of Parks Directors annual meeting, he informed the attendees of Montana's new fee rule. He said other states view this as a ground-breaking step, and are debating this type of action as well. He said they found the "optional" \$4 tax fee especially interesting.

**8. Thompson Chain-of-Lakes FAS Camping Fee Rule Implementation - Tentative.** **Monger** said approximately one year ago there was discussion by the Commission regarding the implementation of camping fees within Fishing Access Sites (FAS). The Commission directed the Parks Division to discuss and develop a tentative rule to establish a camping fee program. **Monger** said this tentative rule would implement camping fees at \$7 per night for people with a fishing license, and \$12 per night for people without a fishing license.

Thompson Chain of Lakes (TCL) FAS, is a heavily used campsite between Kalispell and Libby. It consists of 3,000 acres encompassing 14 lakes. There are over 55 campsites with approximately 150 camping units. FWP created a steering committee, who after much debate, settled on three options:

- 1) charge camping fees only at those sites in the TCL complex with a higher degree of development,
- 2) phase in camping fees throughout the TCL complex over a 5-year period, or
- 3) implement camping fees at the entire TCL complex all at one time.

Option number three is the option of choice. Rationale for this choice over the other two is that campers would choose the non-fee sites over the fee sites which could create social issues, and phasing fees in over a five-year period would be too drawn out, especially if people are disgruntled about the fees in the first place.

**Monger** said this proposal will be very controversial. TCL was previously owned by a private timber company which allowed camping at no charge, and it may be difficult for the people in the area to accept the new fees. He said there is a great deal of vandalism there now, and he is concerned it will continue. Some people actually live in the campgrounds, and just move from site to site. **Monger** said he is also worried about employee safety when asking for fees. There is limited escape should they have problems, and the current ranger does not work after dark. Two patrol officers worked the area all summer.

**Mulligan** said the issue is bigger than the fee system. He said this park needs attention, and needs to be managed differently than it has been managed, or disposed of. He said it needs to be managed in the same manner as the other access sites and parks, but not at the expense of the other sites. It needs to be supported by its own fees. **Brenden** said when this parcel was donated to the state of Montana by Champion Timber Company, FWP didn't have funding to operate the parks that they had; this added another 3,000 acres to deal with. He said it's an issue of never enough money and not enough people. More enforcement will be necessary. **Walker** said a year ago this fee situation was viewed not as a revenue issue, but as a fairness issue.

**Vincent** concurred there will be rebellion against the fee structure. **Murphy** asked who is causing problems, to which Vincent replied it is mostly people from Flathead and Lincoln counties. **Vincent** said when FWP first went through the planning process ten years ago, it was agreed fees would not be charged at that point in time, but would be addressed at a later date, which is now. He noted that this is a fishing access site, and not a park, so fees will be for overnight camping. **Monger** said this proposed fee implementation has been advertised since spring, inviting the public to get involved.

**Brenden** questioned why FWP doesn't trade this land to USFS like was done near Ashley Lake, thereby eliminating the problem.

**Hagener** stated that this is a statewide issue where FWP hears demands for more parks and more fishing access sites. From there, the debates arise as to whether the sites should be developed or primitive. He added that primitive sites can be more work to clean up than the developed sites, that they are high maintenance.

**Murphy** asked how many of the 150 TCL sites are developed, and are there more areas that could be developed? **Monger** said there are 8 permanent toilets and 13 portable toilets. Three sites on the 14 lakes have concrete boat ramps. A few of the sites have metal fire rings, and there are no picnic tables. **Vincent** said the original plan was to hold off with developments until needed; it is becoming needed. He said the Libby area people have agreed that improvements are needed, but they want them to be introduced slowly. The Homeowners Association frowns on fires at all, so they are reluctant to see fire rings built. It is the hope of the Department that improvements will be recognized, and vandalism will be reduced.

**Murphy** asked what is projected for revenue expectations. **Monger** said it is very difficult to project revenue, and is especially difficult when going from no fees to fees, as no data has been established to draw from. Campers have not been counted in the past. He said FWP is currently spending \$18,000 a year on TCL with no revenue. There will be "up-front" costs, but the revenue generated from the fees will assist toward the expenses. **Murphy** said he feels the Department will fall short in generating revenue.

**Brenden** asked what the objections were for the public not wanting a fee. **Monger** replied that among the comments were: FWP said they would never charge fees, Champion never charged fees, you never do anything for us so why charge us fees, there are no facilities here so what's to pay for, it's my God given right to use public land for nothing, I can't afford it, the economy is bad so how can you add insult to injury.

**Lane** asked if the Department has ever asked volunteer groups to adopt the campground for caretaking purposes. **Monger** said volunteers are great assets in many ways, but they cannot be asked to do the big maintenance projects, or to collect fees for FWP from people who are opposed to paying them. FWP contracts with private vendors for emptying toilets etc., thus giving back to community in that fashion.

*Action: Walker moved to add the Thompson Chain of Lakes (TCL) Fishing Access Site complex to the Parks Biennial Fee Rule as a location where camping fees will be implemented, beginning with the 2004 season. In addition, it is proposed that FWP consider a discounted camping coupon program for exclusive use at TCL to pre-pay camping fees. Walker amended his motion to remove the coupon program. Mulligan seconded the motion. Four in favor and one opposed (Murphy). Motion carried.*

**Murphy** said coupons might alleviate some concerns by the public. He said many people will not be happy with fees, and this might improve some people's perception of FWP. He said the number of coupons to a book needs to be set at a number that a person could use, such as for 5 camping trips, or even singularly, but not more than 5.

*Action: Murphy moved and Mulligan seconded the motion to establish a coupon booklet program for TCL, with a booklet comprised of not more than 5 coupons per book at a cost of \$25, to be sold through outlets as perceived in recommendation.*

*Discussion on Motion: Monger* said he will need more information on the coupon situation such as how it will impact adjoining facilities, and how do the coupon prices compare to other campgrounds. He said he would prefer the original motion until he hears what the public has to say. He said at one point in time there was a coupon program that did not work as people did not use it. He added that seasonal camping permits have lost money in years past.

*Action on Motion: Two in favor and three opposed. Motion failed.*

*Action: Walker moved and Mulligan seconded the motion that FWP consider a discounted camping coupon program to be used exclusively at TCL, to be considered concurrent with the previous proposal adding the complex to the parks fee rule. Motion carried.*

**9. Smith River Special Use Annual Rule - Tentative.** **Monger** said during the fee setting process last year, the Department doubled the use fees on the Smith River, and in doing that, also proposed a Corridor Enhancement Account (CEA) associated with the Smith River. Because the Commission wanted the CEA to remain at a static level, they reduced the allocated revenue funds from 10% to 5%. **Monger** said the Department wants to revise the percentage of revenues going into Enhancement account from 5% to 7% to remain consistent with the percentages that were changed during the fee setting. **Monger** said this is only redirection of funds - not new fees.

Discussion ensued regarding whether the Smith would receive the funds, or if the entire state would benefit from these revenues. **Monger** clarified that although the money all goes into one account, this money is earmarked for the Smith River. These are more along the line of capital monies. Concerns were expressed that FWP would not have enough money or manpower to manage this.

Murphy said the language in the Rule needs clarified as he feels the fees could be used to purchase water rights. Monger replied the intent of the language was for it to mean real property but that the language could indeed be modified.

Brenden said he has a problem with the circle created when more money is wanted so more money can be put into accounts for more easements and more land acquisitions, and then that in turn costs more money and more manpower, and there is never enough money or enough manpower. He asked when will there be enough of anything? He said the point he is trying to make is that FWP has to start managing what it has, rather than adding fees to buy more easements that cost more money that can't be managed because that in turn calls for more money and more manpower. **Monger** said this is not a fee increase - it is a redirection. **Mulligan** asked if this account is statutorily mandated, to which Monger replied it is not. **Monger** said the Commission created this when the Smith River Rule was established; this was a negotiated element of the entire Smith River Complex. The purpose was to guarantee that the money went back into the Smith River for operations and maintenance. **Mulligan** said it is due to the amount of the money generated on the Smith River. The intent of this account is to assure the money is spent only in this corridor. He said he wants to make sure improvements are not excluded from this money.

**Murphy** asked if the language in the rule could be modified to make it clear that these dollars are not used for purchasing water rights where it says "property". **Monger** said language could be added stating it is only for the lease of water rights, and clarify where it says "property" that it means "real property".

**Bob Lane, FWP Attorney**, said this rule is constrained by the water rights laws in terms of purchasing water rights. It provides for leasing and not for purchasing, so is already taken care of in the law; this rule cannot override the law. He suggested not to complicate the rule, but to rely on the statute. Lane clarified that he meant in-stream use. He said water rights can be purchased as part of a land sale, but it is time-limited authority and can only be done under the leasing statute.

*Action: Lane moved and Brenden seconded the motion to strike all language in Section M. Corridor Enhancement Account, Number 2 of the Smith River Rule, and stay at 5% on Capital Account and go to 3% on O&M account provided the funds go to operations and maintenance, which would be available to other rivers and park systems.*

*Discussion:* **Monger** said with the current situation, 5% of the revenue goes to the Smith River corridor enhancement account, and 95% goes into the Parks operations and maintenance account. Of that account, the Smith River is fully funded with the fees collected. With this motion, 5% goes to corridor enhancement account and 3% would go into a special account for the Smith River, and 92% would go into the parks operations account. There would be no net difference to the Smith River - There will be no change of dollars to the Smith, because 95% is already going into operations and maintenance, and by setting aside 3% we are dealing with under \$1,000 a year.

**Lane** asked what it would take to direct more money toward operations and maintenance. He said this is one of two parks that generate income so why not use some of this money on other parks. **Monger** replied that is exactly where it is going now, and with this motion, more operations money is being given to the Smith River at the expense of the other state parks.

**Monger** said "the original language 5 years ago put 10% of the revenues of the Smith into the account - last year it was put down to 5%. That proposal was put forward thinking we were doubling the fees but we weren't doubling the fees. The fees went up 50% and not 100% so instead of the 10% being cut in half, 5% to keep equilibrium within the amount of money going into corridor enhancement account, we need to go from 5% to 7%."

*Action on Motion: Lane said it was not his intent and he withdrew his motion.*

**Mulligan** said one of his concerns at leaving it at 5% is the net reduction in that fund. He is concerned that that will not meet the intent of the landowners and public who were originally involved in the establishment of this rule. He asked **Monger** to fill the Commission in as to what he perceives the feelings of the folks who were initially involved in this would be. **Monger** said **Mulligan** was correct, that this was part of the original package that made the Smith River Management Plan palatable. He said that during the fee rule period a year ago, many comments were heard from people saying they don't mind paying more if it goes into the Smith River. **Mulligan** said this proposed 7% would leave things status quo. **Monger** concurred that yes, the 7% would indeed leave the annual revenue of the trust fund status quo.

*Action: Mulligan moved and Walker seconded the motion to increase the fee percentage from 5% to 7% in the Corridor Enhancement Account of the Smith River Rule as proposed by the Department. One in favor (Mulligan) and four opposed. Motion failed.*

No further action was taken, so the Department's proposed fee rule change failed for lack of Commission action to adopt it as a tentative.

**10. Wolf Record of Decision - Informational.** **Jeff Hagener, FWP Director**, said the entire process required by MEPA for the Wolf Management Plan EIS has been completed. He could have signed off on the Record of Decision last week, but he preferred concurrence by the Commission first. The plan submitted has previously been reviewed and approved by the Commission. The Department is confident and comfortable with the plan and feel it will satisfy USFWS requirements.

**Hagener** stated that **Carolyn Sime, FWP Wildlife Biologist** and **Tom Palmer, FWP Information Bureau Chief**, deserve credit for their hard work on this project over the last three years. Carolyn worked extensively with the Wolf Advisory Council by bringing forward and resolving issues, by offering her expertise, and by driving the process forward. Tom was instrumental in representing the Department in his handling of the vast media relations throughout this high profile project. **Hagener** presented each of them a plaque of appreciation.

**Sime** thanked the Commission for their support. She said Montana, Idaho, and Wyoming have completed their plans. They will now go through a federal delisting process. A peer review panel, comprised of wolf managers, recovery specialists, wolf experts, and agency and university representatives, will evaluate each plan using the same set of criteria for all three. Results will then be provided to the USFWS Recovery Coordinator who will determine if the plans are adequate to publish a wolf delisting proposal. If a weakness in a plan is detected, the USFWS will provide direction to that particular state; if the plans are satisfactory, they will go forward with the process. Peer reviewers have until first week of November to provide their assessments to the USFWS. By the end of 2003, the determination will be made whether to propose to delist in the Federal Register or not.

**Walker** questioned the peer review process; will the three plans be reviewed as a whole or separately? **Sime** said each plan will be evaluated separately, followed by an overall assessment. She said that from the USFWS's point of view, the recovery plan comprises of a total of 30 breeding pairs with an equitable distribution between all three states. All three plans call for the minimum of 10 breeding pairs. **Hagener** said the primary emphasis by the USFWS is to determine if the three plans, in total, are adequate to maintain the recovered population of wolves.



**Walker** said the Council has done a great job. **Mulligan** agreed, and said the group has done an impressive job in putting this plan together. He said delisting is imperative management. **Brenden** agreed that group has done a great job, and he said that as a farmer, he wants to see wolves delisted. He added that he dislikes the threat of blackmail by the federal government, however.

**Mulligan** moved and **Walker** seconded that motion to concur with the Record of Decision as recommended by the Department. Four in favor - 1 opposed (Brenden). Motion carried.

**11. Bison Hunt Strategy Timelines - Informational. Pat Flowers, FWP Region 3 Supervisor,** explained that the passage of SB395 has given the Commission authority to establish a bison hunt once again. FWP has met with, and will continue to work with, the Department of Livestock on this issue. A draft timeline has been outlined by the Department, and is in the information packet provided to the Commissioners. He stated an environmental assessment will be necessary, and that a public comment period will also need to be conducted.

**Flowers** said bison were last hunted in 1991, and he added that a bison hunt will not be used as a population control measure. At this point, 50-100 bison will be harvested. Several guidelines will be established for the hunt.

**Representative Pat Wagman** said he had met with Department of Livestock officials and with Senator Gary Perry, and is here to answer any questions the Commissioners may have. He added that he had also introduced a resolution regarding the eradication of brucellosis from Yellowstone Park.

**Flowers** said there are two proposals before the Commission today; the first is a proposed timeline for the implementation of SB395, and the second is a quarantine proposal. **Mulligan** asked if the public comment process would be separate, to which Flowers replied they would. He then presented a Power Point presentation describing the timelines.

**Keith Aune, FWP Region 3 Wildlife Lab Supervisor,** presented a concept on bison quarantining as a means of enhancing population management. He delivered a Power Point presentation on the plan.

**Brenden** asked who would carry the burden of expense. **Aune** replied that it would be full partnership with all entities involved. Aune advised the group that the media is interested in the bison topic.

*Action: The Commission granted the Department's request to proceed with these proposals.*

**12. Green Meadow Game Preserve Rule Repeal - Final. Bob Lane, FWP Chief Legal Council,** said the Commission conducted an Environmental Assessment in 1999, and voted to abandon this game preserve. He said one aspect of this process was not finalized, and that was to formally remove the rule the ARM. This proposed rule change has been through the public notice period, and FWP has received no comments.

*Action: Mulligan moved and Murphy seconded the motion to repeal the Green Meadow Game Preserve Rule from the Administrative Rules of Montana. Motion carried.*

**13. Correction To Hunting District 314-23 Regulations – Tentative. Hagener** said there was an error in the hunting regulations regarding the special permit elk season in the 314-23 area near Gardiner. The error was caught after regulations were printed and permits were issued; permits also went out with this same mistake.

The regulations and permits read that either sex permits are valid from November 20 to December 14. They should read as follows:

|        |                                   |  |
|--------|-----------------------------------|--|
| 314-23 | Nov 20 - Nov 30<br>Dec 1 - Dec 14 | Either Sex Elk. Only valid in south portion of district<br>Antlerless Elk. Only valid in south portion of district |
|--------|-----------------------------------|--|

**Kurt Alt, FWP Region 3 Wildlife Manager**, said an attempt was made to correct the mistake as soon as it was detected, and the Region sent out a news release to inform the public of the mistake. **Alt** said the Region 3 staff discussed the situation in search of a solution to handle the error. Options they proposed included an emergency closure after the general season, or to “just live with” the mistake. From a biological standpoint, it is not a feasible alternative to “just live with” the error.

**Alt** said the recommendation was to adopt as a season tentative the language as it was originally written. That language was:

“from November 20 to November 30 either sex elk only valid south portion of the District 314-23  
from Dec 1 - Dec 14 antlerless elk only valid in south portion of the District.”

To make the correction by presenting it as a season tentative would include a month-long comment period, with the final decision at the October Commission meeting. The proposed course of action also included FWP publishing a news release, and sending out postcards to successful permit holders during the comment period. Once the tentative is adopted, FWP would send out new permits with self addressed stamped envelopes, addressed to **Alt**, with letters requesting the return of the first permit. **Alt** would follow up on any that were not returned.

**Mulligan** said it was his understanding that the Commission approved what **Alt** is saying. **Alt** said **Jeff Herbert, FWP Wildlife Assistant Administrator**, felt that the Commission approved what was mistakenly printed. **Mulligan** said the majority of the people know what the season is supposed to be, and it is important to stay true to the purpose of that season - the proper biological approach. He said if it is left as it is, more bulls will be killed than the population can support, and if it is cut off at the end of the season, the cows won't be harvested as needed.

*Action: **Mulligan** moved and **Murphy** seconded the motion to approve the tentative as proposed on the original tentative, and to include verbiage explaining the biological importance.*

*Discussion on Motion:* **Walker** said perhaps that season should be discontinued altogether. **Mulligan** agreed that it may indeed be the solution. **Alt** said typically there is a tight timeframe to proof the regulations for errors, however, the process has now been reviewed, and there will be checks and counter checks instituted to prevent this type of error from occurring again.

*Action on Motion: Motion carried.*

**14. Gordon Ranch Conservation Easement Proposal (R6) - Informational.** **Glenn Erickson, FWP Field Services Administrator**, said the Department is proposing an acquisition of a 15,157 acre conservation easement in Blaine County, near Chinook, from the Gordon Cattle Ranch. The land consists of wetlands, prairie grass and sagebrush grassland. This land is split into two parcels that are interspersed with BLM land, making it a unique acquisition. The purpose of this easement is primarily to maintain the native prairie grasses. **Erickson** added that many of the potholes are wet every year, that this is a significant migration route, and is the home for sage grouse and swift fox. This easement would be acquired with Habitat Montana Program Funds (HB526), and would be used as a match for federal wetland grant monies available through USFWS.

The Gordons are involved in the block management program, and they will continue to operate a rotation grazing system that enhances wildlife habitat. Oil and gas exploration rights remain with the landowners.

**Erickson** said FWP has been in negotiations with the landowner for quite some time. This proposal has already been presented to the Commission as a tentative, and was approved. **Erickson** said the comment period ends September 12<sup>th</sup>, and this proposal will be brought before the Commission in October for final decision.

**Murphy** asked about prioritization of this proposal compared to other projects. **Erickson** replied that large acquisitions such as this, inclusive of the rich habitat benefits, are not prevalent.

**Brenden** expressed irritation with the Environmental Assessment / Management Plan as written, referring to references of the impacts of tilling or subdividing the land. Erickson stated it was not the intent of the Plan to offend the farmer or make them out as the "bad guy".

**Murphy** asked what percentage of dollars this project would cost. **Hagener** stated that this account sunsets in 2006, and if the sunset is not removed, no further funds will be given to the Department. **Mulligan** asked if this money comes strictly from the habitat program, and would it impact other sources of income. **Hagener** said this money cannot be diverted to other areas as it is earmarked. **Murphy** asked if a large easement takes more personnel to maintain it than does a smaller one, to which Erickson replied that it would be based on terms of the agreement. **Murphy** said according to his calculations, this acquisition would cost approximately \$60 per acre, and he asked how it compares to similar lands. **Erickson** said this price reflects a market analysis of similar land sales. **Brenden** asked for prices of other land sales for comparison. **Hagener** noted that the Commission has granted tentative approval of the Powell Ranch and Whiskey Ridge acquisitions. **Walker** asked if this proposal is an "all or nothing" package, as there are two separate land units. **Mulligan** asked if the easement would be able to stand on its own if, for some reason, the public land portion of the grazing management plan were no longer available. **Erickson** said he will research these questions and get back to them with the answers. **Walker** suggested a work session immediately before the October Commission meeting to further discuss the Habitat Montana Program.

**15. Clarks' Camp FAS Proposal (R5) - Informational.** **Erickson** said the Department is proposing acquisition of this 27 acre parcel of land, located at the confluence of the Clarks Fork and Yellowstone rivers. This area would be developed into a fishing access site, complete with a boat launching site. It currently receives a great deal of use. If approved, negotiations will begin with the landowner and the Nature Conservancy. An appraisal, an environmental audit, an Environmental Assessment, and public hearings will be conducted. This would be a very beneficial acquisition for the sporting public's use.

*Action: The Commission granted the Department's request to proceed with these proposals*

**16. Future Fisheries Projects - July 2003 Funding Cycle - Final.** **Glenn Phillips, FWP Fisheries Habitat Protection Bureau Chief**, said the Future Fisheries Review Panel met July 24, 2003, to discuss 22 proposed projects, of which 16 were subsequently recommended for funding. The total amount associated with these projects is \$317,000. Phillips said there is a variety of projects ranging from riparian fencing projects, channel restoration projects, water conservation projects, and fish screen projects. Phillips said the Department agrees with these recommendations.

**Walker** asked about the Blackfoot River proposal in Powell County near Helmsville. He asked if there is access. **Phillips** said the real benefit of this proposal is the Blackfoot itself, and the water to the main stem of the Blackfoot. **Phillips** said that projects are often done on streams where the benefit of the project may not be so much to the stream itself, but might be to a larger river the stream runs into, in which case, access isn't the primary focus. **Walker** said he always looks for access in these projects, especially in small streams. **Phillips** said that even though access is not required as part of the program, the Review Panel always asks the applicants if there is access. **Walker** asked that each proposal indicate if they provide access, especially to youngsters, from this point forward.

**Mulligan** said he does not have a problem with no access in small streams that aren't fished, but he has a problem if the landowner who is requesting stream improvements receives benefits personally at the expense of the public. He said access is irrelevant when the stream is very narrow and there is no real fishing.

**Walker** said he is not familiar with the Redband Rainbow Trout. **Phillips** said it is a native rainbow trout endemic to the northwestern part of Montana.

**Walker** asked if the Mill Creek proposal in Missoula County is a spawning segment, to which Phillips replied that it is a tributary to the Clark Fork, used for spawning.

**Mulligan** asked about fencing on the Lost Creek proposal on the Ueland Ranch in Deer Lodge County. **Phillips** stated that the Ueland Ranch is in the process of being purchased by Arco, and is open to public access. It is possible that this land could be donated to the state at some future date. The work will occur regardless of whether this becomes state property or not, including the fencing.

**Mulligan** said it is difficult to discern whether or not cattle usage, grazing management, fencing, and rest rotation are addressed in many of these proposals. **Phillips** said that with riparian fencing projects, it is FWP's objective to recover vegetation, etc., therefore riparian management is part of the signed agreement. **Mulligan** said he would appreciate it if each proposal would note the long-term management plans to protect the investment.

**Brenden** questioned the costs of the Lost Creek, North Fork Fridley Creek, and Boulder River proposals. **Phillips** said the Lost Creek proposal is a large stream restoration project, and the Boulder River project is a large fish screen project. The cost of fish screens is proportional to the size of the ditch at approximately \$3,000 per cfs.

**Phillips** said the North Fork Fridley Creek proposal is a water conservation project in Paradise Valley. It is a cut-off from the Yellowstone River and empties into the Park Branch Canal. This project would create a siphon allowing the stream to flow under the Canal and back to the Yellowstone, and it will also rewater the stream. There is an irrigation diversion on that stream which will be abandoned when a well is drilled. This is also a cutthroat spawning stream.

**Shawn Murphy, the landowner**, said the water right is May 15 to October 15, and according to the fish biologist in the area, the fish would come up to spawn in mid-July. He proposed to not use the water rights and convert the use from irrigation to instream flow from June 21st. **Mulligan** asked if the diversion would be permanently abandoned, to which Murphy replied that that is their intention. If they get a good well, they will never go back. **Lane** asked if the 75 feet of culvert will affect the fish. **Phillips** said the culvert would be designed so the fish can get through.

*Action: **Murphy** moved and **Mulligan** seconded the motion to approve the recommendations as proposed by the Department and Future Fisheries Panel. Motion carried.*

A speaker from the audience said none of this money is being spent on projects in the eastern part of the state, nor is it for warm water species. **Walker** replied that this has been discussed in the past, but the reason is that no projects have been submitted from the eastern part of Montana.

**17. Republican Canal Fish Screen - Construction/Maintenance Easements - Final. Mark Lere, FWP Habitat Restoration Program Officer,** asked for approval of two easements to allow access to build a fish screen on Republican Canal, an irrigation diversion on the Bitterroot River, located south of Hamilton. FWP has received funding through the USFWS Fisheries and Irrigation Mitigation Act and the Future Fisheries Program to install and maintain this self-cleaning fish screen.

One of these easements was presented to the Commission in April as an informational item. At that time the construction / maintenance easement was to cost \$8,000, however, the landowner is now willing to donate that easement to FWP. One comment was received during the environmental assessment process, and it revealed that the access road to get to the canal is on another landowner's property. That gentleman is also willing to donate his easement to use that access road to get into the proposed fish screen.

*Action: Murphy moved and Lane seconded the motion to proceed with these easements from these landowners. Motion carried.*

**18. Walleyes Unlimited Presentation on Canyon Ferry Limits. Tim Frederick, President of Walleyes Unlimited, Helena Chapter,** said that since the implementation of the Canyon Ferry Management Plan, Walleyes Unlimited (WU) has been against the 20-fish walleye limit on Canyon Ferry Lake. This year the Broadwater County Commissioners and Townsend Area Chamber of Commerce has joined Walleyes Unlimited to express concern. He said these three entities representing 6,500 people, as well as several businesses that benefit from the increased popularity of Canyon Ferry as a walleye destination. He said since the discovery of walleye in Canyon Ferry, there has been an apparent attitude that walleye are the heart of all fish management problems that arise. WU feels that the increasing cormorant and pelican populations have contributed to the low numbers of perch, and the shortfall on the Rainbow plants.

Frederick said that since 1997, WU has donated money, manpower, and equipment for management duties on Canyon Ferry. He said that the prediction that the walleye population would explode in Canyon Ferry never materialized; that walleyes were gill netted and killed to suppress them. He said they were tagged, tracked and documented, providing a database which WU does not feel is adequate to substantiate the 20-fish limit. He said they have gone on record for supporting a 5-fish limit, and are willing to compromise to a 10-fish limit, but the 20-fish limit is too high.

**Mike Sedlock, Director, Region 5 Walleyes Unlimited,** said the reason WU did not agree with the 20-fish limit was because too little data had been collected on the lake, and "things had not been given a chance to see what would work out to see what would happen". He said he represented the walleye interests during the drafting of the Upper Missouri River Management Plan, and reiterated that they do not feel enough data has been gathered to justify the 20-fish limit. He said WU does not feel FWP is following through with the management plan, and he expressed dissatisfaction with the biologists, such as their resistance to stocking at night, which would reduce predation, as identified in the Plan. He said they feel FWP blames walleyes as the culprit for predation without considering pelicans and cormorons. Studies show that these birds play a large part in predation of fish. He said people are not attending public hearings as the general consensus of the public is that FWP has "already made up their minds and won't listen anyway", and that FWP finds it easier to blame lake problems on the walleye. He said that over 90% of the people who responded during the comment period wanted a 5-fish limit, view the 20-fish limit as a slaughter of fish, and don't feel there is justification biologically to justify this 20-fish limit. It is beginning to look like the Yellowstone Bison Management Plan from

which Montana already has a “black eye”. He asked why set such a limit when less than 90% of the fishermen catch under 5 fish - why have something out there that says “come in and be a glutton”. He concurred with Frederick that their preference would be for a 5-fish limit, but they would consent to a 10-fish limit.

**Mulligan** said the Management Plan was developed by a working group that included Walleyes Unlimited, Trout Unlimited, FWP, and representatives of PPL and Montana Power Company. The Plan adequately addresses what FWP will do if walleye numbers drop down, and it is his opinion that if a mistake is to be made on the unknowns of the lake, it's easier to recover the walleye by dropping the limit than it is to address overpopulation after the fact. He feels the high limit is justified, and he added that he doesn't think anybody ever thought the walleye was the total culprit.

**Ron Spoon, FWP Region 3 Fisheries Biologist**, said the bird issue has only recently been dealt with, and it is a legitimate concern.

**Walker** asked for data relative to ice fisherman days targeting perch over this period of time. **Spoon** said data reveals that out of a 100,000 angler days on Canyon Ferry Lake, 30,000-35,000 angler days occur on the ice, primarily for perch and also for Rainbow. **Spoon** indicated this data is consistent over the last 5 years.

**Walker** said he was disturbed by the terms of “slaughter” and “gluttony”. He questioned whether fishermen would still come to Canyon Ferry if the limit was reduced to 5. He speculated as to whether they come due to the possibility of the high limit or because they are catching them.

**Frederick** said even if the limit were lowered to 10, it would still be twice as many as other areas in the state. He said people come to catch the big fish, not the high number. He stated that Canyon Ferry is a walleye lake now – the dynamics have changed since the management plan was drawn up. He said fishermen come to Canyon Ferry Lake because there have been big fish caught there.

**Frederick** said the statistics only reflect from noon on, and most good walleye fishing is in the morning. He said he has talked with **Bruce Rich, FWP Region 3 Fisheries Manager**, who said perhaps the data is swayed. Frederick said the Townsend Area Chamber of Commerce fears this Management Plan will ultimately shorten their livelihood because they feel walleye IS Canyon Ferry. Fishing boats on Canyon Ferry are primarily there for walleyes.

**Walker** said that since the indication is that the harvest level of 20 fish encourages the catching of the larger spawning fish, if the limit were changed to 5, would those same fishermen catch 5 fish and go home, or would they keep 4 fish and keep fishing in hopes they catch a larger fish? Frederick replied that that is a hard question to answer, but is a possibility.

**Mulligan** said he and Frederick disagree, however, they wish to achieve the same end result; they just have different opinions on how to get there.

**19. Hunting Access Enhancement Program (Private Lands Public Wildlife) - Informational.** **Alan Charles, FWP Landowner/Sportsmen Coordinator**, provided an informative overview of the history, implementation, and status of the Hunting Access Enhancement Program (Block Management / Access Montana / Special Access). The program, which has been in place for 10 years, is up for review in the next legislative session. Subsequently, over the next several months, there will be extensive review of the program by the public and by the Private Land Public Wildlife Council (PLPW), the committee charged with developing recommendations concerning this program.

**Charles** said 65% of the state is privately owned, and the rest is a series of state or federal land. Since 1965, hunters have been required to obtain permission to hunt big game on private property. In 1985, the Stream Access law went into effect. During this time period, private land posting requirements evolved (orange paint). In 1991, legally acceptable school trust land opened to hunters and anglers who bought use licenses. The PLPW Council was developed on 1993, and in 1995, the Block Management program was launched by FWP. In 1999, permission was required for all hunting on private property.

The PLPW Council defined five main goals: 1) to achieve optimum hunter access, 2) to protect wildlife habitat, 3) to minimize impacts on and inconveniences to landowners, 4) to encourage continuance of a viable outfitting industry, and 5) to provide additional tangible benefits to landowners who allow access.

HB195 created this enhanced hunter access program that provided benefits to landowners who allowed public hunting access, provided outfitters with a pool of licenses reserved for clients with revenues earmarked to fund this hunting access program, and provided hunters with expanded hunting access opportunities. It carried sunset provisions requiring annual review by the Committee. In 1999, the legislature extended the original sunset date from Oct 1, 2001 to March 1, 2006. In 1999, the legislature also increased the funding. They raised the Upland Bird Licenses from \$55 to \$110 and earmarked it for this program. In 2001, based on recommendations of the PLPW Council, a Hunting Access Enhancement Fee of \$2 for residents and \$10 for non-residents was initiated. In July of 2003, the newly appointed council was charged with addressing the sunset provisions in the 2005 legislature. The Council is comprised of 16 members appointed by the Governor.

Within statutory guidelines, FWP established three hunting access programs within the Hunting Access Enhancement Program: 1) Block Management which is a corridor program with emphasis on private land, 2) Access Montana with emphasis on public land, and 3) Special Access Programs which are species specific regional projects. In 2002, Block Management had 1,151 landowners enrolled in 8.8 million acres providing over 350,000 hunter days. Access Montana includes long-term access agreements, signing of state and federal lands in areas of conflict, and production of maps and map directories. Special Access Projects target elk management, spring turkey hunting projects, and urban deer and pheasant hunting projects.

**Charles** discussed the distinctions between a hunter and a hunter-day. Charles said for the purposes of this program, it is important to know if one hunter goes on multiple lands.

The program is funded by four sources: 1) The variable priced outfitter sponsored non-resident deer / elk combination licenses, 2) non-resident upland bird licenses, \$55 earmarked, 3) resident and non-resident hunter access enhancement fees, and 4) federal monies. The total funding is approximately \$6 million at the current level. The variable priced license for FY2003 generated \$4.5 million, the non-resident upland bird license generated about \$325,000, the Hunting Access Enhancement Fee was \$800,000, and \$323,000 came from federal funding. Landowners requested increased enforcement, and as a result since 1995, 5 warden positions have been created and funded through this program.

A complimentary non-transferable hunting and fishing license is provided to the resident landowner. A non-resident landowner may receive either a complimentary license or compensation, but not both. One of the benefits of being in the program is that a resident landowner may elect to receive a resident sportsmen's license, and is eligible to receive compensation. A non-resident owner enrolling land in the program may elect to receive a complimentary license in lieu of any compensation, but he cannot receive both. All landowners who enroll receive \$250 annual enrollment payment. Criteria is set for acceptance into the program.

**Charles** further explained the program through an informative Power Point presentation (a copy of which is in the Commission file).

**20. Citizens' Opportunity to Speak on Issues Not Discussed at this Meeting.** No comments.

Meeting adjourned at 4:29 p.m.

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**Dan Walker, Chairman**

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**M. Jeff Hagener, Director**